

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LILLIAN CHILLUS,

Plaintiff,

v.

Case No. 12-C-0922

ANGELIQUE FURTNEY, STAR NO. 12002,
MATTHEW BERNHARDT, STAR NO. 1386,
KENOSHA COUNTY DEPUTY SHERIFF, STAR NO. 1202,
KENOSHA COUNTY, P.O. ANNE GREENFIELD,
CITY OF KENOSHA, OFFICER MAY,
and CORPORAL KAISER,

Defendants.

ORDER GRANTING DEFENDANTS ANGELIQUE FURTNEY, MATTHEW BERNHARDT, KENOSHA COUNTY DEPUTY SHERIFF STAR NO. 1202, KENOSHA COUNTY, OFFICER MAY AND CORPORAL KAISER'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE (DOC. 26) AND GRANTING DEFENDANTS POLICE OFFICER ANNE GREENFIELD AND THE CITY OF KENOSHA'S MOTION TO DISMISS (DOC. 29), AND DISMISSING CASE PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(B) AND CIVIL L.R. 41(C)

Defendants, through two separate motions, seek dismissal of this action for lack of prosecution. Rule 41(b) provides that a defendant may move to dismiss if the plaintiff fails to prosecute or to comply with the rules or a court order. Fed. R. Civ. P. 41(b). Similarly, Civil Local Rule 41(c) provides that the court may enter an order of dismissal whenever it appears to the court that the plaintiff is not diligently prosecuting. Civil L.R. 41(c)(E.D. Wis.)

Since the filing of the status report of October 21, 2013, plaintiff's counsel has not appeared in this action and has failed to respond to defendants's discovery requests. Indeed, Attorney Amy Doyle, on behalf of the Kenosha defendants (Kenosha County, Angelique Furtney, Matthew Bernardt, Officer May, Deputy Sheriff Star No. 1202, and

Corporal Kaiser), avers that defendants have not received responses to their discovery requests dated July 16, 2013, notwithstanding three letters to plaintiff's counsel. Further, the defendants submits that plaintiff has failed to designate expert witnesses by January 31, 2014, provide reports by March 3, 2014, or otherwise provide the signed medical authorizations necessary for discovery. Similarly, counsel for defendants Police Officer Anne Greenfield and City of Kenosha outlines plaintiff's failure to respond to discovery dated August 21, 2013, and letters dated October 1, 2013, October 7, 2013, and December 13, 2013.

When plaintiff's counsel filed the joint status report on October 21, 2013, she represented that the plaintiff would be responding to interrogatories "within the next several weeks." Attorneys Robert DuMez and Amy Doyle attach an e-mail from plaintiff's counsel dated January 12, 2014, at 3:55 p.m. stating "Counsel: My client is apparently in some medical facility at present and I am attempting to contact her. Thank you for your patience." Nevertheless, that e-mail appears to be the only contact that plaintiff's counsel has had with the defendants since the inception of this action. Therefore, based on plaintiff's failure to respond to the pending motions to dismiss and failure to comply with the court's scheduling order,

IT IS ORDERED that defendants Angelique Furtney, Matthew Bernhardt, Kenosha County Deputy Sheriff Star No. 1202, Kenosha County, Officer May and Corporal Kaiser's motion to dismiss for failure to prosecute is granted. (Doc. 26.)

IT IS FURTHER ORDERED that defendants Anne Greenfield and the City of Kenosha's motion to dismiss for failure to prosecute is granted. (Doc. 29.)

IT IS FURTHER ORDERED that this case is dismissed pursuant to Federal Rule of Civil Procedure 41(b) and Civil Local Rule 41(c)(E.D. Wis.).

Dated at Milwaukee, Wisconsin, this 11th day of March, 2014.

BY THE COURT

/s/ C. N. Clevert, Jr.

C.N. CLEVERT, JR.

U.S. DISTRICT JUDGE